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CLEARINGHOUSE RULE 96-164

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

- a. Section Adm 66.02 (1) should be preceded by introductory material that states “In this chapter:”.
- b. In the second sentence of s. Adm 66.02 (6), “shall” should replace “will.” In s. Adm 66.05 (1), “shall” or “may” should replace “should.”
- c. In order to preserve alphabetical order, the definition of “mobile home” in s. Adm 66.02 (7) should follow s. Adm 676.02 (8).
- d. The term “GAAP” should be defined in s. Adm 66.02 as “generally accepted accounting principles” rather than being defined parenthetically in s. Adm 66.03 (1). [s. 1.01 (6) and (8), Manual.]
- e. In the third sentence of s. Adm 66.05 (2), “subsection” should replace “section,” and “made” should be inserted after “be.”

4. Adequacy of References to Related Statutes, Rules and Forms

- a. In s. Adm 66.03 (1), the cite to “s. 227.016” should be “s. 227.114 (1) (a), Stats.”
- b. The rule does not repeal ch. Trans 140. Is this intentional? See Clearinghouse Rule 96-165.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Adm 66.02 (8) (intro.), the phrase “any of the following” should be inserted after the word “means.”

b. Under s. Adm 66.03 (3), it is not clear whether a misstatement on a financial statement requires denial or whether denial is permissive. Compare this phrase with the provision in s. Adm 66.06 (3) which states that if there is a negative net worth, “. . . the license shall be denied or revoked.” This could be clarified by substituting “, the department may deny or revoke the license” or “, the department shall deny or revoke the license” for the last phrase in s. Adm 66.03 (3).

c. In s. Adm 66.04 (4), the term “floor planned” should be reviewed to determine whether its meaning is so commonly understood that it does not need a separate definition.

d. The second sentence in s. Adm 66.04 (4) is not clear; use of the present tense could help, but even then it appears that the sentence is either not properly placed or not properly drafted.

e. Would s. Adm 66.04 (5) (e) allow consideration of assets that are subject to prior liens, security arrangements or other pledges that are not for the full value of the assets?

f. Under s. Adm 66.05 (2), the second sentence should be redrafted; as written, it is not clear. One possibility to clarify the sentence would be to rewrite it to read as follows: “If current liabilities exceed current assets, the department may” See comment 5. a. regarding use of “shall be grounds.”

g. In s. Adm 66.09 (1), an applicant must submit an income statement or other financial statement, if “required by the department.” How will the department determine whether to require such a submission?

h. The table included in s. Adm 66.09 (2) (a) could be improved in layout and clarity. For example, the headings dealing with the number of annual sales could be labeled; the table could be set up to run vertically instead of horizontally for ease of reference. Also, two categories overlap--“11-50” and “50-150”--so that if there are exactly 50 annual sales, a dealer is in two different categories. In the material preceding the table, “table” should replace “guideline” and it may be helpful to a reader to insert “minimum” before “level.”

i. Is there a need for an applicability section to clarify initial application of the new rule?